

To: Judge, U.S. District Court  
To Clerk of Court

**FILED**  
DISTRICT COURT OF GUAM

Fr: Ernesto M. Alvarez  
CF0467-02

DEC 22 2005

MARY L.M. MORAN  
CLERK OF COURT

Re: Defence Arguments

Your Honor,

First of all, I was stressed-out, depressed, and sleepy during the night in question, and I was working with the assistance of the Police when the incident occurs.

I'd like to present some points of arguments regarding the seriousness of the accusations.

1. Attempted Murder? No.

a) Armando Barrogo: said that when Ben Duarte was shot, the lead went to him. So, the victim confessed that there is no intention to shoot him.

b) Maria Theresa Tagarda - She said, she's with the customer when she felt something to her ear. She only changed her story at the grand-jury proceedings. The jury dropped the charge because of her lying.

c) Ben Duarte - I don't know but based on the statement I gave to Agat Precinct on the night in question, the jurors suspected,

that I was surrounded at the bar area, it shows that the victims were the first aggressor and it's a self-defense.

2. Aggravated Assault? No.

It doesn't appear that I knowingly and intentionally want to cause bodily harm among the victims.

3. Slight Physical Injuries? Yes.

a) Maria Theresa Zagada - The prosecutor termed the wound in her ear as 'Nick-in-the-Ear'.

b) Ben Duarte - The same as Ben, he's only complain, it could be the cause of hearing loss of certain percentage, not the gunshot wound.

c) Armando Barrogo - His only complain is a laceration in one of his tooth caused by a head that didn't even penetrate his gum.

None of the victims spend a night in the hospital. They even requires me to pay restitution to the two victims in which the charge was dropped.

4. Gun:

The only reason that even my defense counsel Atty. Maher said that I brought the gun to Mariposa Club, because he wants me to enter into a plea-agreement.

It's over a year before I've seen a psychologist. I'm reconstructing the events although I'm not really sure whether it was derived from a true or false memory. I could have told Dr. Kiffer that I'm trying to give the gun to Arman at the restroom of the Club but he refused.

Alvarez letter

But the truth of the matter is that I don't really know who brought the gun to Mariposa, either Armando or Me. Both of us have access to the gun even Tony who reside next door at the shop. Based on the evidence, if I deny the gun, I would be lying, but I don't think Dr. Kiffer bought the idea that I really brought the gun to Mariposa because it doesn't say in his evaluation report, instead, I was suffering from a lucid-interval. That from Mariposa, I found myself at the parking lot watching the police activity, then I decided heading to Agat Precinct because I knew the man from Agat.

It could be Arman who gave me the gun so he can set me up. Mariposa Club is a controlled area of drug-pushers, dealers and users, even the owner Maria Theresa Tagenda is a drug dealer. She has several sources of suppliers of drugs, not only Armando Benago. Although Tagenda is married, she's also the girlfriend of Arman. The fact is that I'm compromised as informant for the Task Force because these drug-dealers were connected with bad-cops like Jaramia, a GPD Supervisor for the Dededo precinct as their protector.

At AD & F Auto stop, on one occasion, I intercepted one of Ben Duarte's phone calls. He is asking about a 'white-battery' in which Arman is supposed to give him. I told him that we don't have a white battery, we are short of batteries. Ben said, 'a white battery' in a small plastic container. Now I know what he meant. I told him, 'I'll tell Arman'.

These victims were drug-dealers. Not only they were

Alva's Letter

mockery of the law and destroy the fabric of Guana's society. They do more harm than good.

Even judge Unpingco had mentioned that this case is not as serious as others think.

I was offered (6) years plea agreement in this case in the past. The reason the judgment went to (15) years is because Atty. Thompson said to meet the guidelines of 'MS' for deportation.

The AG has been in collaboration with 'MS' personnel on deportation issue even before I was offered a plea.

The AG, the court and defense counsel should not use deportation issue in plea agreement because they have nothing to do about it. It is the MS/Federal who has to pay regarding deportation.

I've been subjected to multiple prosecutions and punishments for the same-crime, not only in Superior Courts of Guana and 'MS'. I was arrested and placed in custody under local and Federal because of 'MS'.

Yours Honor,

I'll just leave everything in your sense of fairness.

Dated this 18th day of December, 2005.

Merry Xmas and  
a Happy New Year!

Sincerely,

Alva

'Now I'm under custody of (DHS) Dept. of Homeland Security.'

(DHS) NO JURISDICTION / CASE COMPLETED?